



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Request a New Collection: Qualification Information for Candidates to Advisory Committees and Subcommittees.

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is announcing an opportunity for public comment on the proposed collection of qualification information for advisory committee and subcommittee candidates by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, and to allow 60 days for public comment.

DATES: Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by subject matter “Qualification Information for Candidates to Advisory Committees and Subcommittees,” and by any of the following methods:

- The Agency’s website, at <http://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Michelle Ghim, Legal Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street, NW, Washington, DC 20581; (202) 418-5667; email: *FACA@cftc.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public obtain or report information. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.¹

Title: “Qualification Information for Candidates to Advisory Committees and Subcommittees.” This is a request for a new OMB control number.

Abstract: The CFTC’s advisory committees were created to provide input and make recommendations to the Commission on a variety of regulatory and market issues that affect the integrity and competitiveness of U.S. derivatives markets. The committees facilitate communication between the Commission and U.S. derivatives markets, trading firms, market participants, and end users. The CFTC currently has five advisory committees. The Energy and Environmental Markets Advisory Committee was established by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, and subsequently codified in the Commodity Exchange Act, 7 U.S.C. 1 *et seq.*, at 7 U.S.C. 2(a)(15), and is not subject to the Federal Advisory Committee Act (FACA), Pub L. 92-463 codified as 5 U.S.C. App. 2. The

¹ 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

Agricultural Advisory Committee, Global Markets Advisory Committee, Market Risk Advisory Committee, and the Technology Advisory Committee are discretionary committees under the FACA. The Commission also establishes subcommittees that report to advisory committees as needed. Advisory committee and subcommittee members are generally representatives, but depending on the issues to be addressed, the Commission will appoint special government employees and officials from other federal agencies from time to time. Representatives provide the viewpoints of entities or recognizable groups, and they are expected to represent a particular and known bias. On the other hand, special government employees are expected to provide their own independent judgment in committee deliberations and are expected to discuss and deliberate in a manner that is free from conflicts of interest.² Advisory committee and subcommittee members generally serve 2, 3 or 4-year terms, and appointments are made following the establishment of a new subcommittee or as committee or subcommittee vacancies arise.

The CFTC identifies candidates for advisory committee and subcommittee membership through a variety of methods, including public requests for nominations; recommendations from existing advisory committee members; consultations with knowledgeable persons outside the CFTC (industry, consumer groups, other state or federal government agencies, academia, etc.); requests to be represented received from individuals and organizations; and Commissioners' and CFTC staff's professional knowledge of those experienced in the derivatives and underlying commodities markets. Following the identification process, the CFTC develops a list of proposed members with the relevant points of view needed to ensure membership balance. The Commission then votes to appoint individuals, or specified organizations, to serve.³

The collection of information is necessary to support the CFTC Advisory Committee Program which includes committees, most of which are governed by the FACA, and

² 18 U.S.C. 202(a)

³ Appendix A to Subpart C of 41 CFR 102-3, the Federal Advisory Committee Management Final Rule notes that the FACA (5 U.S.C. App. 2) does not specify the manner in which advisory committee members and staff must be appointed.

subcommittees that report directly to the CFTC FACA committees, as noted above. Pursuant to the FACA, an agency must ensure that a committee is balanced with respect to the viewpoints represented and the functions to be performed by that committee. Consistent with this, in order to select individuals for potential membership on an advisory committee, the CFTC must determine that potential members are qualified to serve on an advisory committee and that the viewpoints are properly balanced on the committee. The CFTC is also required to ensure that committee members are properly designated as special government employees or representatives.⁴ While CFTC subcommittees are not subject to the FACA, the selection process for subcommittee members who are not already serving on the parent committee is similar to that of new committee members. Additionally, the agency follows similar member selection procedures for the agency's non-FACA committee.

CFTC staff would use the information collected to determine the experience and expertise of potential advisory committee and subcommittee members, ensure that the membership on a committee or subcommittee is balanced, and ensure that committee and subcommittee members are properly designated as representatives or special government employees.

The CFTC seeks to collect the following information: Information that supports an individual's experience and expertise to serve on an advisory committee or subcommittee, including letters of interest, recommendation letters, nomination letters (including self-nominations), resumes, curriculum vitae or other similar biographical information document. Additionally, information that ensures membership balance (e.g., represented viewpoint category) and appropriate designation of an individual as either a representative or special government employee.

With respect to the collection of information, the CFTC invites comments on:

⁴ See, OGE DO-04X9, DO-04-022, and DO-05-012.

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.⁵

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <http://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The respondent burden for this collection is estimated to be as follows:

⁵ 17 CFR 145.9.

Estimated Number of Respondents: 91.

Estimated Average Burden Hours Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 91 hours.

Frequency of Collection: As needed.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: May 12, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

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